

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN DOE,

Plaintiff,

vs.

ELWOOD PUBLIC SCHOOL DISTRICT,
a Nebraska political subdivision, and
DAVID BLESSING, individually and in his
official capacity,

Defendants.

7:04CV5011

ORDER

In the interests of judicial economy,

IT IS ORDERED that the Motion [247] of Dean Sitzmann to quash plaintiff's Rule 45 subpoena or, in the alternative, for leave to appeal the Magistrate's December 18, 2006 order [240] is granted, in part, as follows:

1. Mr. Sitzmann is given leave to appeal the December 18, 2006 Order [240]. The documents submitted in conjunction with [247] will suffice as a Statement of Appeal pursuant to NECivR 72.2.

2. The deposition of Dean Sitzmann is held in abeyance pending Judge Smith Camp's resolution of the substantive issues raised in Motion [247].

3. This order shall not be construed to prohibit the plaintiff from challenging Mr. Sitzmann's standing to file the motion or the timeliness of the motion.

DATED February 5, 2007.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**